

Amendments to the Drawings

Per Examiner's suggestion, the following changes have been made to the drawings: a) Figures 1, 4, 5 and 6 are amended to add missing reference characters; The attached replacement sheets replace the originally filed drawing sheets containing Figures 1-6. The replacement sheets contain the desired changes made to the drawings. The amended drawings is in full compliance with 37 C.F.R. § 1.84. No new matter is introduced. Pursuant to 37 C.F.R. § 1.121(d), each drawing sheet submitted are labeled in the top margin as "Replacement Sheet."

Attachment: Replacement Sheets

REMARKS

Status of the Claims:

Claims 1-16 were originally filed and stand rejected under 35 U.S.C. § 102(b). In this amendment, claims 1-3 and 9-11 are amended to more particularly define the present invention and claims 7 and 15 are amended to correct claim informality. This amendment is not intended to and does not narrow any claim scope. New claim 17 is added. Support for the amendment can be found throughout the specification (e.g., page 16, line 4-page 7, line 2). No new matter is introduced. Upon entry of this amendment, claims 1-17 are pending.

In view of the following remarks, Applicant respectfully requests reconsideration and withdrawal of all grounds of rejection, and the passage of the above-identified claims to allowance.

i) Information Disclosure Statement

In compliance with MPEP § 609.04(a), Applicant submits the CA 1 243 901, US Pat. No. 5,639,452, and US 2001/0045398 in an Information Disclosure Statement (IDS). It is respectfully requested the Examiner initial the references submitted in the IDS. Applicant further respectfully requests the reference made of record and appear among the “Reference Cited” on any patent to issue therefrom.

The Commissioner is authorized to charge any required fee associated with the Supplemental IDS to Goodwin Procter LLP Deposit Account No. 06-0923.

ii) Drawings

The drawings are objected to due to the informality; namely, the drawings must show every feature of the invention (i.e., facemask and tri-dimensional breathing material); legend is needed (Figure 5); and missing reference characters are required. Applicant herewith submit the Replacement Sheets including changes made to the drawings. No new matter is introduced. It is believed that the Examiner’s objections are overcome.

Examiner is mistaken by requesting a designation of Figure 5 as prior art. Applicant respectfully submits that Figure 5 is not Prior Art.

iii) Specification

The specification was objected to because of the informalities. Applicant tenders herewith amendments to the specification and now believe the Examiner's objections are overcome. Specifically, the Exhibits are listed in the "Brief Description of the Drawings" and the "Related Application Section" has been amended to reflect the continuity data of PCT/IB03/04543. The trademark TRANSWEB is now capitalized and accompanied by the generic terminology. The characteristics of TRANSWEB is known at the time the application was filed and no new matter is introduced. The specification has been amended to include a narrative description of the drawings. No new matter is introduced.

iv) Claim Rejections – 35 U.S.C. § 102

a) Claims 1-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rezuke *et al.* (U.S. Pat. No. 5,582,865). Examiner alleges that Rezuke discloses a facemask having a periphery designed to abut a persons face and a tri-dimensional breathing material having an electrostatic charge thereacross; said tri-dimensional breathing material attached to said periphery of said facemask to form a filtering closure. Applicant respectfully traverses these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant respectfully submit that the Examiner has not established a *prima facie* case of anticipation. The Examiner has not correctly pointed out where each claimed element and limitation of the claims is found in the cited references.

Claims 1 and 9 have been amended to more clearly define the claimed invention, which is directed to a combination comprising a permeable face mask having a periphery formed to abut a

user's face, and a tri-dimensional permeable filtering material affixed to said periphery of the facemask to fill any space that exist there between. In essence, the facemask has a periphery that forms a filtering closure, whereby air is filtered as it passes through the periphery and not any gaps that are formed.

Contrary to the Examiner's assertion, Rezuke fails to teach or suggest a periphery that contains a tri-dimensional permeable filtering material affixed to the periphery. Lacking such an inventive feature, Rezuke's facemask is expected to contain space between its facemask and a user's face because of the differential pressure generated, which actually forces air in the gaps between seal and skin (*See*, specification, page 2, lines 9-11) The space allows air to pass through unfiltered, whereas the present invention permits air to filter through the periphery and eliminate the differentiation pressure. This inventive feature of the facemask permits air to be filtered through the facemask as well as through the periphery of the facemask. For at least these reasons, claims 1 and 9 cannot be anticipated by Rezuke.

Claims 2-8 and 10-16 depend from the independent claims 1 and 9, respectively and incorporate the respective limitations thereof. Applicant submits claims 2-8 and 10-16 should be allowable, based on at least the same foregoing reasons and withdrawal thereof of these claims is respectfully requested.

b) Claims 1-16 stand rejected 35 U.S.C. § 102(b) as being anticipated by Messier (U.S. Pat. No. 5,639,452). Examiner alleges that Messier discloses a combination wherein an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge.

Based on the same foregoing reasons as detailed in a), Messier '452 patent is not an anticipatory reference. Accordingly, the rejection under 35 U.S.C. § 102(b) is overcome and withdrawal thereof is respectfully requested.

c) Claims 1-16 stand rejected 35 U.S.C. § 102(b) as being anticipated by Messier (U.S. Pat. No. 6,045,820). Examiner alleges that Messier '820 patent discloses a combination wherein

an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge.

Based on the same foregoing reasons as detailed in a), Messier '820 patent is not an anticipatory reference. Accordingly, the rejection under 35 U.S.C. § 102(b) is overcome and withdrawal thereof is respectfully requested.

d) Claims 1-16 stand rejected 35 U.S.C. § 102(b) as being anticipated by Messier (U.S. Pat. No. 5,980,827). Examiner alleges that Messier '827 patent discloses a combination wherein an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge.

Based on the same foregoing reasons as detailed in a), Messier '827 patent is not an anticipatory reference. Accordingly, the rejection under 35 U.S.C. § 102(b) is overcome and withdrawal thereof is respectfully requested.

CONCLUSION

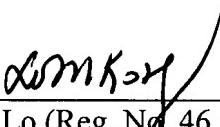
In view of the foregoing, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection, and allowance of all of the claims now present in the application in due course.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to Goodwin Procter LLP Deposit Account No. 06-0923.

Respectfully submitted for Applicant,

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